

## REMARKS

Claims 1-17 and 27-29 are pending in the application. Claim 1-17 and 29 stand rejected, and claims 27-28 are objected to.

The Office Action contained rejections of the claims under 35 USC §§112 and 103. Each will be responded to below.

a. Response to Claim Rejections - 35 USC §112

Claims 1-15 were rejected under 35 USC 112, second paragraph, as being indefinite, on grounds that the claim element “means for propelling” in claim 1 is a means plus function limitation, and the written description must implicitly or inherently set forth a corresponding structure and the term “propel” or “propelling”.

In response, Applicant has amended the written description at page 29, line 10, to read as follows:

As is shown in FIG. 8, the belt 202 of the upper conveyer deck 164 is driven by a conveyer motor 206, to provide means for propelling the rows of pallets relative to the conveyer deck.

Accordingly, Applicant submits that the description has been amended such that it expressly recites the structure that performs the claimed function and to clearly relate the structure to the claimed function, without introducing any new matter. It is therefore respectfully submitted that the rejection of independent claim 1 and its dependent claims 2-15 under 35 USC 112 has been overcome by the present amendment.

b. Response to Claim Rejections – 35 USC §103

In the Office Action, claims 1-3, 5-6 and 29 were rejected under 35 USC 103(a) as being unpatentable over Staeg (DE 4,309,338) in view of Atwater (US 3,661,280) and further in view of Suizu (US 3,921,828) and Proske (US 5,615,992). Claim 4 was

rejected under 35 USC 103(a) as being unpatentable over Staeger in view of Atwater and Suizu and further in view of Carder et al. (US 4,304,518). Claim 7-8, 10-11 and 14 were rejected under 35 USC 103(a) as being unpatentable over Staeger in view of Atwater, Suizu and Proske and further in view of Tharpe (US 5,887,699). Claim 9 was rejected under 35 USC 103(a) as being unpatentable over Staeger in view of Atwater, Suizu and Proske and further in view of Ringer (US 4,093,084). Claim 12-13 were rejected under 35 USC 103(a) as being unpatentable over Staeger in view of Atwater, Suizu, Proske and Thornton and further in view of Barski (US 3,042,230). Claim 15 was rejected under 35 USC 103(a) as being unpatentable over Staeger in view of Atwater, Suizu, Proske and Thornton and further in view of Winski (US 5,562,403). Claims 16-18 and 22-26 were rejected under 35 USC 103(a) as being unpatentable over Holz (US 6,056,497) in view of Thornton (US 5,054,987) and Lang (US 4,170,292). Claim 19 was rejected as being unpatentable over Holz in view of Thornton, Lang and Barski (US 3,042,230).

In response, Applicant has amended the pending claims to further distinguish over the cited references. Claim 29 has been canceled.

In Applicant's prior response dated 20 April 2009, Applicant noted that dry van trailers mostly have standardized lengths. Applicant also amended independent claim 1 to expressly recite that the traveling conveyor has a deck having sufficient length to support rows of multiple pallets that form full loads that will fill a length of a standard highway dry van, and to also recite that the full loads are moved simultaneously to/from the back of the traveling conveyor, and explained that the cited references do not teach or suggest such structure.

In the present Office Action, the Examiner found Applicant's arguments unpersuasive, stating as follows (Office Action pages 15-16):

To that end and with respect to full loads that fill the length of a standard highway dry van...Applicant defines a full load as filling "a length" of a dry van but does not specify whether this length is 40 inches or 40 feet. However, a user may define a full load as 4 pallets or 20 pallets depending on pallet size, article density, pallet height, stacked pallets, shelves on track etc...Last, a length is filled which according to claim 1 is a full load. For example within the trucking industry a common and well known shipment quantity is less-than-truckload shipments (referred to as LTL) where a customer has an order quantity that does not utilize the cubed out

space of a truck. However, when placed on the truck it is a full load that fills the length because no more will be shipped. In the alternative, claim 1 does not preclude the conveying pallets consecutively, i.e., one at a time in a row.

In view of the Examiner's remarks, Applicant has amended claim 1 to recite that the deck of the traveling conveyor, and also the end portions of the storage racks and loading/unloading conveyor, has a length "between about 24 feet and about 53 feet so as to be able to support rows of multiple pallets that form full loads of said palletized cargo, said full loads of said palletized cargo being sufficiently long to fill substantially the length of one of said standard highway dry vans." (The reference to an elongate end portion of the feed conveyer has been deleted from claim 1 as surplusage unnecessary to distinguish over the prior art.) As noted in Applicant's prior response, highway dry van trailers are mostly standardized at lengths of about 48 feet and about 53 feet, however, standardized 24-foot "pup trailers" are used in some instances, (mainly 28 foot in the U.S., but some at 24 feet in Canada) hence the limitation "between about 24 feet and about 53 feet" in claim 1. Moreover, claim 1 has also been amended to recite that the full loads of palletized cargo are carried and moved on/off of the deck of traveling conveyor "en masse" and therefore not consecutively as postulated by the Examiner. A number of amendments have also been made in the dependent claims to render the language thereof consistent with that of amended claim 1.

Applicant respectfully submits that amended claim 1 clearly distinguishes over the cited references. As the Examiner has noted previously, the references disclose structures that can carry/load pallets individually; however, they cannot support/load full loads of palletized cargo consisting of rows of pallets between about 24 and about 53 feet long that will fill the entire length of a standard highway drive van, as is required by amended claim 1. Applicant therefore respectfully submits that the references, taken alone or in combination do not teach or suggest a warehousing system having the elements required by amended claim 1 and its dependent claims, and that the rejection thereof 35 USC §103 is therefore overcome by the present amendment.

c. Allowable Subject Matter

Claims 27-28 were objected to in the Office Action as being dependent upon the rejected base claim, but were stated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, Applicant has amended claim 16, from which claim 27 depended, to include all of the limitations of claim 27. Amended claim 16 therefore corresponds to claim 27 rewritten in independent form including all of the limitations of the base claim, there having been no intervening claims. Claim 27 has consequently been canceled and claim 28 has been amended to depend from amended claim 16.

It is therefore believed that claim 16 and its independent claims 17 and 28 are now in condition for allowance.

d. Conclusion

Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below.

Signed at Bellingham, County of Whatcom, State of Washington this 2<sup>nd</sup> day of October, 2009.

Respectfully submitted,

JOHN H. RALLIS

By

Todd N. Hathaway, Reg. No. 32,991  
119 N. Commercial St. #620  
Bellingham, WA 98225-4437  
(360) 647-1976